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OFFICE OF PETITIONS

In re Application of
Mabrouk Quederni and Paul L. Latten
Application No. 10/721,964
Filed: November 25, 2003
Attorney Docket No. 2000-16 CIP-2
Title: AIR-LAID WEB WITH HOLLOW
SYNTHETIC FIBERS

DECISION ON PETITION
UNDER 37 C.F.R. §1.47(a)

This is in response to the petition under 37 C.F.R. §1.47(a)¹, filed November 25, 2003.

On November 25, 2003, the application was deposited, identifying Mabrouk Quederni and Paul L. Latten as joint inventors. The application was deposited without a fully executed oath or declaration². The instant petition was submitted along with the filing of the application.

With the instant application, petitioner submitted the last known address of the non-signing inventor, an affidavit executed by the signing inventor, and the petition fee, which has been charged to Petitioner's Deposit Account, as authorized in the petition.

Petitioner has met requirements (1), (3), and (5) above. As the instant petition was included on filing, requirement (2) above is not applicable.

1A grantable petition under 37 C.F.R. §1.47(a) requires:

- (1) the petition fee of \$130;
- (2) a surcharge of either \$65 or \$130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
- (3) a statement of the last known address of the non-signing inventors;
- (4) either
 - a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
 - b) proof that the non-signing inventor cannot be found or reached after diligent effort;
- (5) a declaration which complies with 37 CFR §1.63.

² Joint inventor Quederni did not execute the declaration.

Regarding the fourth requirement above, Petitioner has not submitted adequate proof that diligent efforts have been made to locate the non-signing inventor. *As petitioner has set forth that the non-signing joint inventor cannot be found, Petitioner is required to establish that a diligent effort was made to locate the non-signing inventor.*

The declarants set forth that the non-signing inventor has left the employ of the purported assignee,³ and moved to Tunisia⁴. Petitioner has concluded there is no reasonable method with which to reach the non-signing inventor⁵. Petitioner has added that "after conducting a due diligence investigation to determine the whereabouts of Mabrouk Quederni, he was unable to be located⁶."

As no details of the search have been provided, it appears that no search was undertaken. As such, Petitioner has not submitted adequate proof that diligent efforts have been made to locate the non-signing inventor, because no mention is made as to any search done for the non-signing inventor. If attempts to obtain a forwarding address or to locate the non-signing inventor by other means such as through E-mail, telephone, or the Internet fail, then applicant will have provided the necessary proof required under 37 C.F.R. §1.47 that the inventor cannot be reached. Details of the efforts to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details.

Applicant should submit documentary evidence such as the results of an E-mail or Internet search. It is important that the statement contain facts as opposed to conclusions⁷.

For this reason, the petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision, and must contain evidence that a diligent search was conducted for the non-signing joint inventor, except for if the reply consists of a declaration which has been executed by the formerly non-signing inventor. Extensions of time under 37 CFR §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR §1.47(a)."

The reply to this letter may be submitted by mail⁸, hand-delivery⁹, or facsimile¹⁰.

The reply should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner. The Petitioner may wish to consider telephoning the undersigned at the

³ It is noted that no assignment documents have been recorded with the Office.

⁴ Affidavit of Paul Latten, paragraph 5.

⁵ Id.

⁶ Petition, pages 2-3.

⁷ See MPEP 409.03(d).

⁸ Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

⁹ Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

¹⁰ (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned.

number provided below to confirm that the documents were delivered to the undersigned. Please note that the delivery process within the PTO can take as much as three weeks.

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.

A handwritten signature in black ink, appearing to read "Paul Shanoski". The signature is fluid and cursive, with the first name "Paul" and last name "Shanoski" clearly distinguishable.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office